

AMENDED IN SENATE JANUARY 6, 2014

AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 545**

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**Introduced by Senator Anderson**

February 22, 2013

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An act to amend Section 1277 of the Code of Civil Procedure, relating to civil procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 545, as amended, Anderson. Name change: minors.

(1) Existing law establishes the procedure for a person to change his or her name. When a proceeding for a change of name is commenced by the filing of a petition, existing law requires the court to issue an order reciting the filing of the petition, the name of the person by whom it is filed, and the name proposed, except as specified. In the case of a petition filed by a parent for the name change of a person under 18 years of age, existing law requires a minor's nonconsenting parent to be served with notice of the time and place of the hearing, as specified.

This bill would authorize a court to waive the requirements for publication and notice to a nonconsenting parent if necessary to protect the best interests of the minor upon a showing by the petitioner that the minor and petitioner are participants in a specified address confidentiality program, that the petitioner has sole custody of the minor, *as specified*, that the child is protected by an order pursuant to the Domestic Violence Prevention Act that prevents the nonpetitioning parent from having contact with the minor for at least 5 years, and that the nonpetitioning parent is not subject to an order to pay child support for the minor.

(2) Existing law provides that if a petition for a change of name alleges a specified reason or circumstance and the petitioner is a participant in a specified address confidentiality program, the action for a change of name is exempt from the publication requirement.

This bill would provide that in order for the action for a change of name to be exempt from the publication requirement, the petitioner would also be required to establish that the name he or she is seeking to acquire is on file with the Secretary of State.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1277 of the Code of Civil Procedure, as  
2     added by Section 2 of Chapter 651 of the Statutes of 2013, is  
3     amended to read:

4     1277. (a) (1) If a proceeding for a change of name is  
5     commenced by the filing of a petition, except as provided in  
6     subdivisions (b), (c), and (e), the court shall thereupon make an  
7     order reciting the filing of the petition, the name of the person by  
8     whom it is filed, and the name proposed. The order shall direct all  
9     persons interested in the matter to appear before the court at a time  
10    and place specified, which shall be not less than six *weeks* nor  
11    more than 12 weeks from the time of making the order, unless the  
12    court orders a different time, to show cause why the application  
13    for change of name should not be granted. The order shall direct  
14    all persons interested in the matter to make known any objection  
15    that they may have to the granting of the petition for change of  
16    name by filing a written objection, which includes the reasons for  
17    the objection, with the court at least two court days before the  
18    matter is scheduled to be heard and by appearing in court at the  
19    hearing to show cause why the petition for change of name should  
20    not be granted. The order shall state that, if no written objection  
21    is timely filed, the court may grant the petition without a hearing.  
22    If the petition seeks to conform the petitioner's name to his or her  
23    gender identity and no objection is timely filed, the court shall  
24    grant the petition without a hearing.

25    (2) A copy of the order to show cause shall be published  
26    pursuant to Section 6064 of the Government Code in a newspaper  
27    of general circulation to be designated in the order published in

1 the county. If no newspaper of general circulation is published in  
2 the county, a copy of the order to show cause shall be posted by  
3 the clerk of the court in three of the most public places in the  
4 county in which the court is located, for a like period. Proof shall  
5 be made to the satisfaction of the court of this publication or  
6 posting, at the time of the hearing of the application.

7 (3) Four weekly publications shall be sufficient publication of  
8 the order to show cause. If the order is published in a daily  
9 newspaper, publication once a week for four successive weeks  
10 shall be sufficient.

11 (4) If a petition has been filed for a minor by a parent and the  
12 other parent, if living, does not join in consenting thereto, the  
13 petitioner shall cause, not less than 30 days prior to the hearing,  
14 to be served notice of the time and place of the hearing or a copy  
15 of the order to show cause on the other parent pursuant to Section  
16 413.10, 414.10, 415.10, or 415.40. If notice of the hearing cannot  
17 reasonably be accomplished pursuant to Section 415.10 or 415.40,  
18 the court may order that notice be given in a manner that the court  
19 determines is reasonably calculated to give actual notice to the  
20 nonconsenting parent. In that case, if the court determines that  
21 notice by publication is reasonably calculated to give actual notice  
22 to the nonconsenting parent, the court may determine that  
23 publication of the order to show cause pursuant to this subdivision  
24 is sufficient notice to the nonconsenting parent. *A court may waive*  
25 *the requirements of this paragraph for publication and notice if*  
26 *necessary to protect the best interests of the minor upon a showing*  
27 *by the petitioner of all of the following:*

28 (A) *The minor and the petitioner are participants in the address*  
29 *confidentiality program created pursuant to Chapter 3.1*  
30 *(commencing with Section 6205) of Division 7 of Title 1 of the*  
31 *Government Code.*

32 (B) *A court has issued a final order awarding the petitioner*  
33 *sole legal and physical custody of the minor and the custodial*  
34 *parent has terminated the parental rights of the non-custodial*  
35 *parent.*

36 (C) *The minor is protected by an order issued after a hearing*  
37 *pursuant to the Domestic Violence Prevention Act of Division 10*  
38 *(commencing with Section 6200) of the Family Code that prevents*  
39 *the nonpetitioning parent, for a period of at least five years, from*  
40 *having any contact with the minor.*

1 (D) *The nonpetitioning parent is not subject to an order to pay*  
2 *child support for the minor whose name is proposed to be changed.*

3 (5) If the petition for a change of name is sought in order to  
4 conform the petitioner's name to his or her gender identity, the  
5 action for a change of name is exempt from the requirement for  
6 publication of the order to show cause under this subdivision.

7 (b) (1) If the petition for a change of name alleges a reason or  
8 circumstance described in paragraph (2), and the petitioner ~~is a~~  
9 *has established that he or she is an active* participant in the address  
10 confidentiality program created pursuant to Chapter 3.1  
11 (commencing with Section 6205) of Division 7 of Title 1 of the  
12 Government Code, ~~the and that the name he or she is seeking to~~  
13 *acquire is on file with the Secretary of State, the* action for a change  
14 of name is exempt from the requirement for publication of the  
15 order to show cause under subdivision (a), and the petition and the  
16 order of the court shall, in lieu of reciting the proposed name,  
17 indicate that the proposed name is confidential and ~~will be~~ *is* on  
18 file with the Secretary of State pursuant to the provisions of the  
19 address confidentiality program.

20 (2) The procedure described in paragraph (1) applies to petitions  
21 alleging any of the following reasons or circumstances:

22 (A) To avoid domestic violence, as defined in Section 6211 of  
23 the Family Code.

24 (B) To avoid stalking, as defined in Section 646.9 of the Penal  
25 Code.

26 (C) The petitioner is, or is filing on behalf of, a victim of sexual  
27 assault, as defined in Section 1036.2 of the Evidence Code.

28 (3) For any petition under this subdivision, the current legal  
29 name of the petitioner shall be kept confidential by the court and  
30 shall not be published or posted in the court's calendars, indexes,  
31 or register of actions, as required by Article 7 (commencing with  
32 Section 69840) of Chapter 5 of Title 8 of the Government Code,  
33 or by any means or in any public forum, including a hardcopy or  
34 an electronic copy, or any other type of public media or display.

35 (4) Notwithstanding paragraph (3), the court may, at the request  
36 of the petitioner, issue an order reciting the name of the petitioner  
37 at the time of the filing of the petition and the new legal name of  
38 the petitioner as a result of the court's granting of the petition.

39 (5) A petitioner may request that the court file the petition and  
40 any other papers associated with the proceeding under seal. The

1 court may consider the request at the same time as the petition for  
2 name change, and may grant the request in any case in which the  
3 court finds that all of the following factors apply:

4 (A) There exists an overriding interest that overcomes the right  
5 of public access to the record.

6 (B) The overriding interest supports sealing the record.

7 (C) A substantial probability exists that the overriding interest  
8 will be prejudiced if the record is not sealed.

9 (D) The proposed order to seal the records is narrowly tailored.

10 (E) No less restrictive means exist to achieve the overriding  
11 interest.

12 (c) A proceeding for a change of name for a witness participating  
13 in the state Witness Protection Program established by Title 7.5  
14 (commencing with Section 14020) of Part 4 of the Penal Code  
15 who has been approved for the change of name by the program is  
16 exempt from the requirement for publication of the order to show  
17 cause under subdivision (a).

18 (d) If *an* application for change of name is brought as part of  
19 an action under the Uniform Parentage Act (Part 3 (commencing  
20 with Section 7600) of Division 12 of the Family Code), whether  
21 as part of a petition or cross-complaint or as a separate order to  
22 show cause in a pending action thereunder, service of the  
23 application shall be made upon all other parties to the action in a  
24 like manner as prescribed for the service of a summons, as is set  
25 forth in Article 3 (commencing with Section 415.10) of Chapter  
26 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue,  
27 notice of the hearing shall be given to all parties in the action in a  
28 like manner and within the time limits prescribed generally for the  
29 type of hearing (whether trial or order to show cause) at which the  
30 issue of the change of name is to be decided.

31 (e) If a guardian files a petition to change the name of his or her  
32 minor ward pursuant to Section 1276:

33 (1) The guardian shall provide notice of the hearing to any living  
34 parent of the minor by personal service at least 30 days prior to  
35 the hearing.

36 (2) If either or both parents are deceased or cannot be located,  
37 the guardian shall cause, not less than 30 days prior to the hearing,  
38 to be served a notice of the time and place of the hearing or a copy  
39 of the order to show cause on the child's grandparents, if living,  
40 pursuant to Section 413.10, 414.10, 415.10, or 415.40.

(f) This section shall become operative on July 1, 2014.

SECTION 1. ~~Section 1277 of the Code of Civil Procedure is amended to read:~~

~~1277. (a) (1) If a proceeding for a change of name is commenced by the filing of a petition, except as provided in subdivisions (b), (c), and (d), the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed, and the name proposed. The order shall direct all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than 6 weeks nor more than 12 weeks from the time of making the order, unless the court orders a different time, to show cause why the application for change of name should not be granted. The order shall direct all persons interested in the matter to make known any objection that they may have to the granting of the petition for change of name by filing a written objection, which includes the reasons for the objection, with the court at least two court days before the matter is scheduled to be heard and by appearing in court at the hearing to show cause why the petition for change of name should not be granted. The order shall state that, if no written objection is timely filed, the court may grant the petition without a hearing.~~

~~(2) A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If no newspaper of general circulation is published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or posting, at the time of the hearing of the application.~~

~~(3) Four weekly publications shall be sufficient publication of the order to show cause. If the order is published in a daily newspaper, publication once a week for four successive weeks shall be sufficient.~~

~~(4) If a petition has been filed for a minor by a parent and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not less than 30 days prior to the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent pursuant to Section 413.10, 414.10, 415.10, or 415.40. If notice of the hearing cannot~~

1 reasonably be accomplished pursuant to Section 415.10 or 415.40,  
2 the court may order that notice be given in a manner that the court  
3 determines is reasonably calculated to give actual notice to the  
4 nonconsenting parent. In that case, if the court determines that  
5 notice by publication is reasonably calculated to give actual notice  
6 to the nonconsenting parent, the court may determine that  
7 publication of the order to show cause pursuant to this subdivision  
8 is sufficient notice to the nonconsenting parent. A court may waive  
9 the requirements of this paragraph for publication and notice if  
10 necessary to protect the best interests of the minor upon a showing  
11 by the petitioner of all of the following:

12 (A) The minor and the petitioner are participants in the address  
13 confidentiality program created pursuant to Chapter 3.1  
14 (commencing with Section 6205) of Division 7 of Title 1 of the  
15 Government Code.

16 (B) A court has issued a final order awarding the petitioner sole  
17 legal and physical custody of the minor.

18 (C) The minor is protected by an order issued after a hearing  
19 pursuant to the Domestic Violence Prevention Act of Division 10  
20 (commencing with Section 6200) of the Family Code that prevents  
21 the nonpetitioning parent, for a period of at least five years, from  
22 having any contact with the minor.

23 (D) The nonpetitioning parent is not subject to an order to pay  
24 child support for the minor whose name is proposed to be changed.

25 (b) (1) If the petition for a change of name alleges a reason or  
26 circumstance described in paragraph (2), and the petitioner has  
27 established that he or she is an active participant in the address  
28 confidentiality program created pursuant to Chapter 3.1  
29 (commencing with Section 6205) of Division 7 of Title 1 of the  
30 Government Code, and that the name he or she is seeking to acquire  
31 is on file with the Secretary of State, the action for a change of  
32 name is exempt from the requirement for publication of the order  
33 to show cause under subdivision (a), and the petition and the order  
34 of the court shall, in lieu of reciting the proposed name, indicate  
35 that the proposed name is confidential and is on file with the  
36 Secretary of State pursuant to the provisions of the address  
37 confidentiality program.

38 (2) The procedure described in paragraph (1) applies to petitions  
39 alleging any of the following reasons or circumstances:

1     ~~(A) To avoid domestic violence, as defined in Section 6211 of~~  
2     ~~the Family Code.~~

3     ~~(B) To avoid stalking, as defined in Section 646.9 of the Penal~~  
4     ~~Code.~~

5     ~~(C) The petitioner is, or is filing on behalf of, a victim of sexual~~  
6     ~~assault, as defined in Section 1036.2 of the Evidence Code.~~

7     ~~(3) For any petition under this subdivision, the current legal~~  
8     ~~name of the petitioner shall be kept confidential by the court and~~  
9     ~~shall not be published or posted in the court's calendars, indexes,~~  
10    ~~or register of actions, as required by Article 7 (commencing with~~  
11    ~~Section 69840) of Chapter 5 of Title 8 of the Government Code,~~  
12    ~~or by any means or in any public forum, including a hardcopy or~~  
13    ~~an electronic copy, or any other type of public media or display.~~

14    ~~(4) (A) A petitioner may request that the court file the petition~~  
15    ~~and any other papers associated with the proceeding under seal.~~  
16    ~~The court may consider the request at the same time as the petition~~  
17    ~~for name change, and may grant the request in any case in which~~  
18    ~~the court finds that all of the following factors apply:~~

19    ~~(i) There exists an overriding interest that overcomes the right~~  
20    ~~of public access to the record.~~

21    ~~(ii) The overriding interest supports sealing the record.~~

22    ~~(iii) A substantial probability exists that the overriding interest~~  
23    ~~will be prejudiced if the record is not sealed.~~

24    ~~(iv) The proposed order to seal the records is narrowly tailored.~~

25    ~~(v) No less restrictive means exist to achieve the overriding~~  
26    ~~interest.~~

27    ~~(B) On or before January 1, 2010, the Judicial Council shall~~  
28    ~~develop rules of court and forms consistent with the requirements~~  
29    ~~of this paragraph.~~

30    ~~(e) A proceeding for a change of name for a witness participating~~  
31    ~~in the state Witness Protection Program established by Title 7.5~~  
32    ~~(commencing with Section 14020) of Part 4 of the Penal Code~~  
33    ~~who has been approved for the change of name by the program is~~  
34    ~~exempt from the requirement for publication of the order to show~~  
35    ~~cause under subdivision (a).~~

36    ~~(d) If application for change of name is brought as part of an~~  
37    ~~action under the Uniform Parentage Act (Part 3 (commencing with~~  
38    ~~Section 7600) of Division 12 of the Family Code), whether as part~~  
39    ~~of a petition or cross-complaint or as a separate order to show~~  
40    ~~cause in a pending action thereunder, service of the application~~



1 shall be made upon all other parties to the action in a like manner  
2 as prescribed for the service of a summons, as set forth in Article  
3 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of  
4 Part 2. Upon the setting of a hearing on the issue, notice of the  
5 hearing shall be given to all parties in the action in a like manner  
6 and within the time limits prescribed generally for the type of  
7 hearing (whether trial or order to show cause) at which the issue  
8 of the change of name is to be decided.

9 (e) If a guardian files a petition to change the name of his or her  
10 minor ward pursuant to Section 1276:

11 (1) The guardian shall provide notice of the hearing to any living  
12 parent of the minor by personal service at least 30 days prior to  
13 the hearing.

14 (2) If either or both parents are deceased or cannot be located,  
15 the guardian shall cause, not less than 30 days prior to the hearing,  
16 to be served a notice of the time and place of the hearing or a copy  
17 of the order to show cause on the child's grandparents, if living,  
18 pursuant to Section 413.10, 414.10, 415.10, or 415.40.